

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

KAREN F. EDWARDS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:06CV116LS

**PINNACLE REALTY MANAGEMENT
CORPORATION; AMERICAN MANAGEMENT
SERVICES, LLC and GRAOCH ASSOCIATES
#57 LIMITED PARTNERSHIP**

DEFENDANTS

ORDER

This matter came before the court on the Plaintiff's Motion to Compel, by which she sought discovery responses from the Defendants. An earlier Motion to Compel was denied for failure to attach a Certificate of Good Faith, as is required by Unif. Local R. 37.1. This Motion suffers from the same infirmity, as it includes neither a Good Faith Certificate nor the required Affidavit of counsel. Additionally, the Plaintiff has since filed a Motion to Compel seeking deposition dates for a 30(b)(6) deposition. That Motion states that the discovery requests that were sought in the instant Motion have since been served; therefore, this Motion will be denied.

The time for the Defendants to respond to the later Motion has not expired; therefore, the Motion is not ripe for a ruling. The 30(b)(6) deposition that is the subject of that Motion was earlier noticed by the Plaintiff's attorney; however, the Defendants informed her that they would not be available. In the interest of encouraging cooperation on this issue, the court notes that, once a deposition has been noticed, it is incumbent upon the party on whom the notice was served to seek the protection of the court. There is no provision in the Rules of Civil Procedure that permits a party to simply decline to appear at its deposition. *See* Fed. R. Civ. P. 37(d).

IT IS, THEREFORE, ORDERED that the Motion to Compel filed by the Plaintiff on August 29, 2006, is hereby **denied**.

IT IS SO ORDERED, this the 22nd day of September, 2006.

S/James C. Sumner
UNITED STATES MAGISTRATE JUDGE